

REMARKS

Applicant notes with appreciation the Examiner's allowance of Claims 10, 11, 35-41, 43, 45-48, 50 and 53, provided that these claims are rewritten in independent form to include all limitations of the base claim from which these claims depend, plus any intervening claims. In response to the Examiner's objection, Applicant has rewritten the above-referenced claims to place them in condition for allowance. However, Applicant wishes to bring the following to the attention of the Examiner in conjunction with this Amendment and Response:

Since Applicant's receipt of the Office Action that was mailed on July 19, 2005, Applicant has attempted to contact the Examiner on multiple occasions to schedule an Interview to request clarification of certain points raised in the first Office Action, as well as in the second Office Action which has been designated "Final". In particular, Applicant has placed numerous telephone calls and left numerous messages for the Examiner expressing Applicant's desire to schedule a preliminary Interview to discuss the points on which Applicant seeks clarification, followed by a more substantive Interview to discuss the rejections and cited prior art. In response to these calls, Applicant has received only one message from the Examiner which was followed by additional and unsuccessful attempts by Applicant to reach the Examiner.

In view of (1) Applicant's inability to successfully reach the Examiner, (2) the fact that the Office Action has been designated "Final" and (3) the upcoming deadline within which Applicant must respond, Applicant has elected to, without prejudice, cancel the claims that were rejected in the Office Action mailed on July 19, 2005. Applicant's cancellation of the rejected claims should not be taken as an indication that Applicant concedes that the prior art anticipates the rejected claims. Applicant anticipates filing a continuation application in the near future which will include these cancelled claims for further consideration by the Examiner, as well as any new claims to be presented to the Examiner.

Applicant further notes that under MPEP § 706.07(a),¹ it was improper for the Examiner to have designated the second Office Action as "Final," since the Examiner has cited new prior art, namely, U.S. Patent No. 3,911,537 ("Mazur"), to reject Claims 9 and 54, which had originally been designated as claiming allowable subject matter. Moreover, since Claim 54 was dependent on an allowable claim (i.e., Claim 53), this claim should have remained allowable as well, without even considering the disclosure of Mazur. Notwithstanding the foregoing, Applicant has cancelled this claim for the purpose of permitting the application to proceed to issuance as soon as possible and not because Applicant concedes that the prior art anticipates Claim 54.

A Petition for Extension of Time Under 37 C.F.R. §1.136(a) is included herewith. A check for the official fee of \$225.00 for a two-month extension as prescribed by 37 C.F.R. §1.17(a)(2), in the case of a Small Entity, is also submitted herewith.

Applicant understands that no additional fee is necessary in connection with the foregoing. In the event that additional fees in connection with the application and the documents submitted herewith are due, the examiner is authorized to charge Deposit Account No. 07-1730, Gottlieb, Rackman & Reisman, P.C.

¹ Section 706.07(a) of the Manual of Patent Examining Procedure provides in pertinent part:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Based on the foregoing, early and favorable examination is requested.

Respectfully submitted,

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